

**Minutes for Montana State Supreme Court Commission on Self-Represented
Litigants Meeting 9/7/2006**

Present at Missoula Courthouse

Shirley Faust
Bob Lukes
Tim Little
Monty Joel
Judy Meadows
Orijit Ghoshal
Tara Veazey
Hon. Michelle Snowberger
Peg Allison

Helena

Neil Haight
Ann Gilkey
Chris Manos
Ryan Hazen
Tammy Hinderman

Billings

Hon. Russ Fagg
Corbin Howard

Meeting called to order around 3:15 PM

1 (Discussion of Copyright Issues with Bob Lukes) – JUDY MEADOWS opened the meeting by saying that the Self-Represented Litigants Network, Chief Justices, and the American Bar Association have been instrumental in developing materials on best practices to be referenced by this Montana commission and its stakeholders. JM then introduced BOB LUKES and turned the floor over to him.

BL recounted the series of events in 2005 in which a company named “Legal Zoom” in California was found to be using *pro se* forms approved by the Montana State Supreme Court Commission on Self-Represented Litigants. The outcome of BL’s contact with the firm revealed that Legal Zoom assisted 56 people from April 2001 to November 2004, amounting to an estimated total revenue of \$15,000. It is BL’s understanding that the firm has ceased to use these forms since establishing contact with him. BL also stated that a settlement was not probable due to the time gap, but that the Commission may be able to collect a licensing fee of around \$2500, which MICHELLE SNOWBERGER and JM both encouraged.

NEIL HAIGHT stated that the Commission should determine a method to stop plagiarizing in the future, and BL responded that the Commission can prohibit the use of their forms by unauthorized practitioners, and that producers of legal forms must notify the Commission before they use forms in Montana. JM suggested that an article should be written for the National Judges’ Journal to bring this issue to light and increase awareness as well as a posting on probono.net.

BL suggested that, in the future, there should exist a written copyright on the forms, plus a disclaimer warning against commercial use of the forms and that registration is unnecessary and costly. TARA VEAZEY asked BL if it is possible to do a joint-copyright on the forms with Montana Legal Services Association. BL said that was simple, a form could be filed or both organizations’ names could be placed on the forms, including automated forms.

2 (Discussion with Monte Jewell on using open source software) – MONTE JEWELL introduced himself to the commission and distributed information regarding his project (www.openmissoula.org) which works to make forms accessible to the public. JM's initial reaction was positive, that the Commission should place their approval on MJ's forms since family law forms are in high demand.

MS stated that before new forms were approved, the Commission should decide form template and readability issues. JM stated that the language has to be brought down to a fifth grade reading level. MJ stated that he had no pride of ownership, that he was content with the forms being prepared for approval to whatever standard the Commission decided on. MS reiterated that logistical issues such as font size and white space needed to be codified into guidelines for the Commission to follow.

3, 4 (Status of Forms + Intro of TL and OG) – TV agreed with MS that a round of priorities is needed for *pro se* forms. MJ asked the Commission for a forms 'hotlist' and that he would provide feedback based on the forms he had. RUSS FAGG stated that he thought MJ's forms were excellent. TV brought up the fact that an outside consultant came up with readability issue suggestions on name change forms that would require rule changes with the State Uniform Code for Forms. JM reminded the commission that one of their charges is to recommend statutory changes. TV observed that they had been talking about the issue for a year, and that new employee's of MLSA (TIM LITTLE and ORIJIT GHOSHAL) would draft a proposal to the Commission for form development decisions. JM committed to focusing on forms for the next meeting. TV stated that MLSA has three sets of forms waiting for approval that are not perfect in terms of readability but would help litigants get their foot in the door.

RF asked the Commission what the downside was of approving forms, and TV stated in support that approval is not even necessary, just that the forms are available to litigants. RF reminded the Commission that it would help Judges if the approval was on forms filed in their courts. MS reiterated her concern for looking at the template, but RF argued (and JM agreed) that they would not want to wait months for rule changes in order to approve the forms. TV proposed that she, TL and OG would create two lists of forms, one that would not require rule changes and one that would be based on the consulting agency's recommendations on readability. TAMMY HINDERMAN suggested that these lists should be accompanied by a list of rule changes necessary for approval as is.

CHRIS MANOS brought up the logistical issue of distribution for the forms and was wondering what the plan was for Commission approved forms. JM stated that the forms could be distributed through the Montana Lawyer, to the Law Library, at the Judges' meeting and at the Limited Courts' meeting. PEG ALLISON noted that clerks do exchange information on a bulletin board type of service, and TH suggested that there be a note concerning the forms in the Judicial Branch newsletter. CM then asked the Commission for a CD of the forms approved by the Commission, and that the State Bar could distribute such a CD to all the District Court Judges in the state.

5 (Surveys) – JM wondered if the two surveys before the Commission could be combined, which the Bar agreed to. SHIRLEY FAUST stated that the Administrative Office of the Court would be well suited to answer questions on the survey, and that clerks may not be able to access the data asked for on the survey. CORBIN HOWARD stated that efficiency should be emphasized in dealing with SRLs, which could be brought up at the Judges' meeting next month. TV also suggested that Community Legal Education could be used to avoid unnecessary litigation by unrepresented litigants.

6 (Review of Clerk of Court training) – MS stated that she had to cancel training in Northeastern Montana; otherwise the entire state had been covered. MS trained the clerks on how the process works, dealt with the frustration on bigger caseloads and that she will revisit the issues addressed in six months. CM stated the need for an electronic manual to local bars and multiple trainings such as a spring CLE to talk about Clerks' training. MS brought to light that the Belgrade budget had been cut, which would hamper the ability of the Commission to provide the training to all clerks in Montana. SF stated that clerks lose time when dealing with self-represented litigants, but that the feedback from the trainings was good. MS stated the need for onsite help, such as workstations and additional clerks.

JM stated that the next meeting would be before Thanksgiving, and adjourned the meeting around 5:30 PM.